



FOREIGN AFFAIRS MANUAL

VOLUME 9 – Visas

Transmittal Letter: VISA-179

Date: August 21, 1998

PARTS 40, 41, AND 42; APPENDICES N AND O

MAJOR CHANGES

1. **40.22 Notes:** These notes are amended to comport with the “*Matter of Castro*”, 19 I&N 692, which determined that a sentence is “actually imposed” where a criminal court suspends the execution of a sentence, but no sentence is “actually imposed” where the imposition of the sentence is suspended.

2. **40.41 Exhibit I:** HHS published new poverty guidelines effective April 1, 1998. This exhibit reflects this update. Pub. L. 104-208 now requires a contractually binding affidavit of support which reflects income of at least 125%. The tables show the poverty guideline figures for 100% and also reflect the 125% figures. (The 100% figures should be used for members of the Armed Forces and those cases that do not fall under the Form I-864, Affidavit of Support.)

3. **40.103 Notes:** 40.203 Notes (transmitted by TL:VISA-175) are renumbered as 40.103.

4. **41.22 Procedural Notes:** New procedural notes for Taipei Economic and Cultural Representative Office (TECRO) dependents entitled to ‘E’ classification.

5. **42.21 Notes:** In N2.2-1 the reference citation has been changed. N4.2 is added regarding failure of an abusive U.S. citizen or Lawful Permanent Resident (LPR) spouse to file a petition and N12.14 is added regarding vaccination exemption for orphans.

6. **42.22 Regs/Statutes:** Sec. 304(b) of Pub. L. 104-208 repealed INA 212(c), effective April 1, 1997. Sec. 306(d) of Pub. L. 104-208, however, amended Pub. L. 104-132 which, in turn, amends former INA 212(c). This section as amended will be in effect during the transition period and will apply to cases that fall under sec. 309 of Pub. L. 104-208. INA 240(a) is also amended to reflect changes resulting from sec. 304 of Pub. L. 104-208.

7. **42.32(b) Regs/Statutes and Notes:** Statutory provisions and notes relating to the Soviet Scientists Immigration Act of 1992 (Pub. L. 102-509) are removed. The legislation terminated on October 21, 1996.
8. **42.33 Regs/Statutes:** Adds sec. 203 of Pub. L. 105-100, The Nicaraguan Adjustment and Central American Relief Act. This section reduced by 5,000 the number of diversity visas made available annually.
9. **42.63 Exhibit XI:** This exhibit updates the supplemental handout (DSL 1083) regarding the availability of Police Certificates and Military Records.
10. **Appendix C Section 200, Exhibit I:** This exhibit is amended to reflect the changes in fees for consular services. [63 FR 5098]
11. **Appendix N Section 600:** The new Section 600 deals primarily with "Parole Authority".
12. **Appendix O Section 1900, Exhibit VI:** Several agencies have been removed from the list while several others have been added.
13. Revisions since the last update appear in italics. The italics will be removed the next time the section is updated. Only the current changes will appear in italics. Italics provide the historical record of changes.
14. Officers are reminded that Department-issued materials not codified in the *Foreign Affairs Manual* or its supplemental *Foreign Affairs Handbook* series generally have no regulatory validity [see 2 FAM 1115.2].

FILING INSTRUCTIONS

1. Remove section 40.22 Notes (TL:VISA-46; 8-26-91 – 2 pages) and insert the revised identically numbered section.
2. Remove section 40.41 Exhibit I (TL:VISA-168; 08-08-1997 – 2 pages) and insert the revised identically numbered exhibit.
3. Remove section 40.203 Notes (TL:VISA-175; 01-15-1998 2 pages) and insert the newly numbered 40.103 Notes.
4. Insert the new section 41.22 Procedural Notes after 41.22 Notes.
5. Remove section 42.21 Notes (TL:VISA-170; 10-01-1997 – 24 pages) and insert the revised identically numbered section.
6. Remove section 42.22 Regs/Statutes (TL:VISA-154; 10-16-96 – 5 pages) and insert the revised identically numbered section.

7. Remove section 42.32(b) Regs/Statutes (TL:VISA-144; 6-28-96 – 3 pages) and insert the revised identically numbered section.
8. Remove section 42.32(b) Notes (TL:VISA-144; 6-28-96 – 8 pages) and insert the revised identically numbered section.
9. Remove section 42.33 Regs/Statutes (TL:VISA-175; 01-15-1998 – 8 pages) and insert the revised identically numbered section.
10. Remove section 42.63 Exhibit XI (TL:VISA-81; 8-4-93 – 1 page) and insert the revised identically numbered exhibit.
11. Remove Appendix C section 200 Exhibit I (TL:VISA-114; 6-16-95 – 7 pages) and insert the revised identically numbered exhibit.
12. Remove Appendix N section 600 (TL:VISA-152; 9-9-96 – 1 page) and insert the revised identically numbered section.
13. Remove Appendix O section 1900 Exhibit VI (TL:VISA-142; 4-22-96 – 1 page) and insert the revised identically numbered exhibit.
14. After inserting the material in the binder, insert this transmittal letter immediately following the TL Checklist, fill in the entry line for TL:VISA-179, and initial.

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(CA/VO/L/R)